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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,159	12/23/2005	Heinz Metzger	49727	6588
1609 7590 11/05/2008 ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P. 1300 19TH STREET, N.W. SUITE 600 WASHINGTON,, DC 20036				
EXAMINER				
REESE, DAVID C				
ART UNIT		PAPER NUMBER		
3677				
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11/05/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/562,159

**Applicant(s)**

METZGER, HEINZ

**Examiner**

David C. Reese

**Art Unit**

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

- Claims 6-8 are withdrawn (see below).
- Claims 1-10 are pending.

### ***Election/Restrictions***

[1] Claims 6-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant did not traverse the restriction (election) requirement in the reply filed on 6/26/2008; so therefore, the election is treated as an election without traverse.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

[2] The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, “the actuating mechanism has a plurality of tensioning means permitting modification of the width of the gap at selected points” from claim 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

[3] Claim 1 recites the limitations "the one-piece body", "the basis", "the components of the actuating mechanism", "the radial plane", "the elastically flexible", "the geometry", "the angle", "the longitudinal axis", "the installation state", "the threaded flank clearance", "the preinstallation state" in the instant claim. There is insufficient antecedent basis for these limitations in the claim.

Claim 4 recites the limitation, "the individual tensioning means" in the instant claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation, "the purpose" in the instant claim. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

[4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[5] Claims 1-2 and 9-10 are rejected under 35 U.S.C. 102(b) as anticipated by Gall, US-2,409,204, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

As for Claim 1, Gall discloses of a threaded ring the one-piece body of which provided with internal threading has at least two body components (15,16), the first (15) of which forms a set collar with an end plane surface positioned in the radial plane and the second body component (16) of which forms a retaining ring (16) which is connected to the first body component (15) to form a gap (14) positioned between the two body components (15,16) by way of the elastically flexible wall component (17) of the body and has an actuating mechanism (23) by means of which the geometry of the gap (14) can be adjusted on the basis of the elastic flexibility of the wall component (17) along the longitudinal axis of the body, characterized in that in the preinstallation state between the components of the actuating mechanism (23) and components of the body (15,16) there is a contact surface (between the head of the screw and 19 in fig. 1) which is provided with a definable inclination and that the angle of inclination is selected relative to the longitudinal axis of the body such that in the installation state the threaded flank clearance which occurs is eliminated (after a full tightening of the screw, such a clearance is eliminated).

Re: Claim 2, wherein the contact surface runs perpendicular to the longitudinal axis of the body in the installed state with the elimination of the threaded flank clearance.

Re: Claim 9, wherein the second body component (16) functioning as a retaining ring has for the purpose of forming the elastically flexible wall component (17) an outside diameter equal to the outside diameter of the first body component (15) in the form of a set collar.

Re: Claim 10, wherein the angle of inclination is one half to five degrees, preferably one to three degrees.

***Claim Rejections - 35 USC § 103***

[6] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[7] Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gall, US-2,409,204.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claim 3, Gall teaches that of the above claims.

The difference between the claim and Gall is that Gall does not expressly state that of the actuating mechanism comprising a plurality of tensioning means. Examiner takes official notice

that it is old and well known to use a plurality of tensioning means (set screws) around the circumference of a threaded ring. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have replaced the single set screw with multiple screws as to provide a way for the user to adjust the tension at various points along the threaded ring. Further, it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954); and even further, it has been held that mere duplication of the essential working parts of a device involves only routine skilled the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Re: Claim 4, wherein in the preinstallation state the inclined contact surface is situated between the individual tensioning means and the second body component (16).

Re: Claim 5, wherein a part of the contact surface is assigned to each tensioning means.

***Conclusion***

[8] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of fastener: please see submitted notice of reference cited.

[9] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached at (571) 272-6987. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Reese

/D. C. R./  
Examiner, Art Unit 3677

/Victor Batson/  
Supervisory Patent Examiner, Art Unit 3677